

Senate Bill No. 62

CHAPTER 601

An act to amend Sections 1202 and 7604 of the Public Utilities Code, relating to railroad crossings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 7, 2001. Filed with
Secretary of State October 9, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 62, Morrow. Railroad crossings: automated warning devices.

(1) Under existing law, the Public Utilities Commission determines and prescribes highway-rail crossings and is authorized on an application-by-application basis to supervise the operation of pilot highway-rail crossing projects to evaluate proposed crossing warning devices or new technology and to mitigate train horn noise without compromising the safety of the public, in at least the communities of Roseville and Lathrop.

This bill would authorize the commission to authorize additional pilot highway-rail crossing projects in the Cities of Fremont and Newark.

This bill would incorporate additional changes in Section 1202 of the Public Utilities Code proposed by AB 1249, that would become operative only if AB 1249 and this bill are both chaptered and become effective on or before January 1, 2002, and this bill is chaptered last.

(2) Existing law authorizes the Public Utilities Commission to authorize on an application-by-application basis and supervise the operation of a pilot project to evaluate proposed crossing warning devices or new technology and authorizes automatic audible warning devices that sound automatically when an approaching train is a specified distance from the place where the railroad crosses any street, road, or highway.

This bill would authorize audible warning devices that sound automatically for a specified amount of time before the approaching train crosses a street, road, or highway.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 1202 of the Public Utilities Code is amended to read:

1202. The commission has the exclusive power:

(a) To determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use, and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad, and of each crossing of a public or publicly used road or highway by a railroad or street railroad, and of a street by a railroad or of a railroad by a street.

(b) To alter, relocate, or abolish by physical closing any crossing set forth in subdivision (a).

(c) To require, where in its judgment it would be practicable, a separation of grades at any crossing established and to prescribe the terms upon which the separation shall be made and the proportions in which the expense of the construction, alteration, relocation, or abolition of crossings or the separation of grades shall be divided between the railroad or street railroad corporations affected or between these corporations and the state, county, city, or other political subdivision affected.

(d) (1) To authorize on an application-by-application basis and supervise the operation of pilot projects to evaluate proposed crossing warning devices or new technology at designated crossings, with the consent of the local jurisdiction, the affected railroad, and other interested parties, including, but not limited to, represented railroad employees.

(2) (A) The Legislature finds and declares that for the communities of the state that are traversed by railroads, there is a growing need to mitigate train horn noise without compromising the safety of the public. Therefore, it is the intent of the Legislature that the commission may authorize pilot projects, after an application is filed and approved by the commission in at least the communities of Roseville, Fremont, Newark, and Lathrop to test the utility and safety of stationary, automated audible warning devices as an alternative to trains having to sound their horns as they approach highway-rail crossings.

(B) In light of the pending proposed ruling by the Federal Railroad Administration on the use of locomotive horns at all highway-rail crossings across the nation, it would be in the best interest of the state for the commission to expedite the pilot projects in order to contribute data to the federal rulemaking process regarding the possible inclusion of stationary, automated warning devices as a safety measure option to the proposed federal rule.

SEC. 1.5. Section 1202 of the Public Utilities Code is amended to read:

1202. The commission has the exclusive power:



(a) To determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use, and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad, and of each crossing of a public or publicly used road or highway by a railroad or street railroad, and of a street by a railroad or of a railroad by a street.

(b) To alter, relocate, or abolish by physical closing any crossing set forth in subdivision (a).

(c) To require, where in its judgment it would be practicable, a separation of grades at any crossing established and to prescribe the terms upon which the separation shall be made and the proportions in which the expense of the construction, alteration, relocation, or abolition of crossings or the separation of grades shall be divided between the railroad or street railroad corporations affected or between these corporations and the state, county, city, or other political subdivision affected.

(d) (1) To authorize on an application-by-application basis and supervise the operation of pilot projects to evaluate proposed crossing warning devices, new technology, or other additional safety measures at designated crossings, with the consent of the local jurisdiction, the affected railroad, and other interested parties, including, but not limited to, represented railroad employees.

(2) The Legislature finds and declares that for the communities of the state that are traversed by railroads, there is a growing need to mitigate train horn noise without compromising the safety of the public. Therefore, it is the intent of the Legislature that the commission may authorize the following pilot projects, after an application is filed and approved by the commission:

(A) To test the utility and safety of stationary, automated audible warning devices as an alternative to trains having to sound their horns as they approach highway-rail crossings in the communities of Roseville, Fremont, Newark, and Lathrop, and in any other location determined to be suitable by the commission.

(B) To authorize supplementary safety measures, as defined in Section 20153 (a)(3) of Title 49 of the United States Code, for use on rail crossings.

No new pilot project may be authorized after January 1, 2003. The commission shall report to the Legislature by March 31, 2004, on the outcome of this pilot project.

(3) In light of the pending proposed ruling by the Federal Railroad Administration on the use of locomotive horns at all highway-rail crossings across the nation, it would be in the best interest of the state for the commission to expedite the pilot projects authorized under



paragraph (2) in order to contribute data to the federal rulemaking process regarding the possible inclusion of stationary, automated warning devices as a safety measure option to the proposed federal rule.

SEC. 2. Section 7604 of the Public Utilities Code is amended to read:

7604. (a) A bell, of at least 20 pounds weight or of equivalent sound-producing capability, shall be placed on each locomotive engine, and shall be rung at a distance of at least 1,320 feet from the place where the railroad crosses any street, road, or highway, and be kept ringing until it has crossed the street, road, or highway; or a steam whistle, air siren, or an air whistle shall be attached, and be sounded at the like distance, and be kept sounding at intervals until it has crossed the street, road, or highway, except as follows:

(1) In a city, the ringing of the bell or the sounding of the steam whistle, air siren, or air whistle shall be at the discretion of the operator of the locomotive engine.

(2) When a locomotive engine is engaged in a switching operation or comes to a stop at any point within a distance of 1,320 feet from the place at which the railroad crosses any street, road, or highway, it shall not be necessary that the bell be rung or the whistle, air siren, or air whistle be sounded, until the time and from the place that the locomotive begins an uninterrupted movement to and across the place at which the railroad crosses the street, road, or highway.

(3) (A) The ringing of the bell or the sounding of the steam whistle, air siren, or air whistle is not required when approaching a railroad crossing that has a permanently installed audible warning device authorized by the commission that begins to sound automatically no less than twenty seconds before an approaching train enters the place where the railroad crosses any street, road, or highway, and that keeps sounding until the lead locomotive has crossed the street, road, or highway.

(B) The operator of the locomotive may ring the bell or sound the steam whistle, air siren, or air whistle at crossings equipped as set forth in subparagraph (A).

(b) Any railroad corporation violating this section shall be subject to a penalty of one hundred dollars (\$100) for every violation. The penalty may be recovered in an action prosecuted by the district attorney of the proper county, for the use of the state. The corporation is also liable for all damages sustained by any person, and caused by its locomotives, train, or cars, when the provisions of this section are not complied with.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 1202 of the Public Utilities Code proposed by both this bill and AB 1249. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2002, but this bill becomes

operative first, (2) each bill amends Section 1202 of the Public Utilities Code, and (3) this bill is enacted after AB 1249, in which case Section 1202 of the Public Utilities Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 1249, at which time Section 1.5 of this bill shall become operative.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the test of the pilot program for stationary, automated audible warning devices at highway-rail crossings and the feasibility of that system to be assessed, and for the program to be extended to additional locations, as soon as possible, it is necessary that this act take effect immediately.

